

1 BILL NO. S-83-12- 34

2 SPECIAL ORDINANCE NO. S- 274-83

3 AN ORDINANCE approving a Contract
4 by the City of Fort Wayne by and
5 through its Board of Public Works
6 and Gaines Construction Company,
7 for Res. #5990-83, Installation
8 of Concrete Median Barrier in
9 2100 Block of North Clinton.

10 NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF
11 THE CITY OF FORT WAYNE, INDIANA:

12 SECTION 1. The annexed Contract, made a part hereof,
13 by the City of Fort Wayne by and through its Board of Public
14 Works and Gaines Construction Company, for Res. #5990-83, Installa-
15 tion of Concrete Median Barrier in 2100 Block of North Clinton,
16 is hereby ratified, and affirmed and approved in all respects.
17 The work under said Contract requires:

18 Improvement Resolution No. 5990-83
19 is to improve safety by installing
20 median barrier in the 2100 block
21 of North Clinton;

22 involving a total cost of Thirteen Thousand Nine Hundred Fifty-
23 Two and 50/100 Dollars (\$13,952.50).

24 SECTION 2. Prior Approval was received from Council
25 with respect to this Contract on September 20, 1983. Two (2)
26 copies of the Contract attached hereto are on file with the Office of
27 the City Clerk, and are available for public inspection.

28 SECTION 3. That this Ordinance shall be in full force
29 and effect from and after its passage and any and all necessary
30 approval by the Mayor.

31 Samuel H. Talarico
32 Councilmember

33 APPROVED AS TO FORM
34 AND LEGALITY

35 Bruce O. Boxberger
36 City Attorney

Read the first time in full and on motion by Talarico, seconded by GiaQuinta; and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock 11.M., E.S.T.

DATE: 12-13-83

Sandra E. Kennedy
CITY CLERK

Read the third time in full and on motion by Talarico, seconded by Jim Hunt, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>9</u>	_____	_____	_____	_____
BRADBURY	<u>✓</u>	_____	_____	_____	_____
BURNS	<u>✓</u>	_____	_____	_____	_____
EISBART	<u>✓</u>	_____	_____	_____	_____
GiaQUINTA	<u>✓</u>	_____	_____	_____	_____
SCHMIDT	<u>✓</u>	_____	_____	_____	_____
SCHOMBURG	<u>✓</u>	_____	_____	_____	_____
SCRUGGS	<u>✓</u>	_____	_____	_____	_____
STIER	<u>✓</u>	_____	_____	_____	_____
TALARICO	<u>✓</u>	_____	_____	_____	_____

DATE: 12-27-83

Sandra E. Kennedy
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) NO. 1-274-83 on the 27th day of December, 1983.

ATTEST:
Sandra E. Kennedy
CITY CLERK

(SEAL)
Ray A. Ebert
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of December, 1983, at the hour of 1:00 o'clock P..M., E.S.T.

Sandra E. Kennedy
CITY CLERK

Approved and signed by me this 28th day of December 1983, at the hour of 4 o'clock P..M., E.S.T.

Win Moses Jr
WIN MOSES, JR. - MAYOR

CONTRACT

73-225-4
11/21/83

This Agreement, made and entered into this 21st day of November, 1983

by and between ----- GAINES CONSTRUCTION COMPANY -----
----- 217 W. Washington Center Road, Ft. Wayne, Ind. 46825 -----

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, hereinafter called "City," under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to improve

safety by installing concrete median barrier in the 2100 block of North Clinton.

by grading and paving the roadway to a width of XXX feet with
XX

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 5990-83 attached hereto and by reference made a part hereof.

At the following prices:

Concrete Removal (Including Curb Removal & Sawing)	Four dollars and fifty cents per square yard	4.50
Remove Guardrail	Two dollars and no cents per lineal foot	2.00
Common Excavation	Five dollars and no cents per cubic yard	5.00
Concrete Walk	One dollar and fifty cents per square foot	1.50
Asphalt Patching	One dollar and fifty cents per lineal foot	1.50
Concrete Median (Including Guardrail Over Manhole)	Twenty-eight dollars and no cents per lineal foot	28.00
Seeding, Mulch & Fertilizer	One dollar and no cents per square yard	1.00
Maintaining Traffic (Including Signing & Flashing Arrow Sign)	Six dollars and no cents per lump sum	6.00
Total	Thirteen thousand, nine hundred and fifty-two dollars and fifty cents	\$13,952.50

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5990-83 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally *See Liquidated Damages Provision.

and in all respects completed on or before *Nov. 30, 1983 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said date, 19____ until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 21st day of November, 1983

ATTEST:

Samuel Daines
Corporate Secretary

GAINES CONSTRUCTION CO., INC.

BY: Henry Daines

ITS:

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

[Signature]
John R. Collins
Jack Wilson
[Signature]

Its Board of Public Works and Mayor.

ATTEST:

John V. Gachnow
Secretary and Clerk

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.

PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we GAINES CONSTRUCTION COMPANY
as Principal, and the State Auto Mutual Insurance Co.

Columbus, Ohio, a corporation organized under the laws of the
State of Ohio, and duly authorized to transact business in the
State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne,
Indiana, an Indiana Municipal Corporation in the sum of THIRTEEN THOUSAND, NINE
HUNDRED AND FIFTY-TWO DOLLARS AND FIFTY CENTS -----

(\$13,952.50-----), for the payment whereof well and truly to be made,
the Principal and Surety bind themselves, their heirs, executors, administrators,
successors and assigns, jointly and severally, firmly by these presents. The
condition of the above obligation is such that

WHEREAS, the Principal did on the 24th day of October, 1983,
enter into a contract with the City of Fort Wayne to construct

Improvement Resolution No. 5990-83

To improve safety by installing concrete median barrier in the 2100 block of North
Clinton.



at a cost of \$ 13,952.50-----, according to certain plans and specifications
prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement
provides:

1. That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of three (3) years from the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

GAINES CONSTRUCTION COMPANY
(Contractor)

BY: Henry Gaines

ITS: _____

ATTEST:

Daniel Daines

Sec.
(Title)

State Auto Mutual Insurance Co.
Surety

*BY: Lynn B. Smith
Authorized Agent Lynn B. Smith
(Attorney-in-Fact)

*If signed by an agent, power of attorney must be attached

BILL NO. S-83-12-34

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN
ORDINANCE approving a Contract by the City of Fort Wayne by and
through its Board of Public Works and Gaines Construction Company,
for Res. #5990-83, Installation of Concrete Media Barrier in 2100
Block of North Clinton

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

SAMUEL J. TALARICO, CHAIRMAN

Samuel J. Talarico

VICTURE L. SCRUGGS, VICE CHAIRMAN

Victure Scruggs

MARK E. GIAQUINTA

Mark E. Giaquinta

PAUL M. BURNS

Paul M. Burns

ROY J. SCHOMBURG

Roy J. Schomburg

*Concurred
12-27-83*

ORDINANCE NO. 5990-83, Installation of Concrete Median
Barrier in 2100 block of N. Clinton
DEPARTMENT REQUESTING ORDINANCE Board of Public Works 6531

SYNOPSIS OF ORDINANCE Improvement Resolution No. 5990-83 is to improve safety by
installing concrete median barrier in the 2100 block of North Clinton. Gaines
Construction Company is the contractor.

PRIOR APPROVAL RECEIVED 9/20/83

EFFECT OF PASSAGE Safety improvement.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$13,952.50

ASSIGNED TO COMMITTEE